

# THE CORPORATION OF THE TOWN OF KINGSVILLE

## BY-LAW 72-2001

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### Being a by-law restricting the setting of Open Fires within the Town of Kingsville

**WHEREAS** the *Municipal Act, 2001*, R.S.O. 1990, cM.45 Subsection 210(35) authorizes a municipality to pass by-laws relating to the setting of fires in the open air;

**AND WHEREAS** the Ontario Fire Code, O.Reg 388/97 as amended by O.Reg 398/98 and 428/98 which restricts open burning in non-agricultural areas;

**AND WHEREAS** pursuant to reports from the Fire Chief there have been instances within the municipality, that in the opinion of the Fire Department, is detrimental, and hazardous to the welfare of its inhabitants;

**AND WHEREAS** the municipality has general promoted the restriction of any burning or setting of fires within the municipality;

**AND WHEREAS** it is deemed by the Council of the Town of Kingsville to restrict the setting of fires in the open air in the Town of Kingsville.

### **NOW THEREFORE THE COUNCIL OF THE CORPORATION OF THE TOWN OF KINGSVILLE ENACTS AS FOLLOWS:**

1. In this by-law:
  - (a) "Town of Kingsville" means the new restructured and amalgamated municipality known as the Corporation of the Town of Kingsville created by a Province of Ontario Order made under the Municipal Act R.S.O. 1990, c.M.45 subsection 25.2(6)(B) and dated November 19, 1997, and being composed of the former municipalities of the Township of Gosfield North, Township of Gosfield South and the Town of Kingsville.
  - (b) "Fire in the open air" or other phrases similar thereto means any fire set outside of a building.
  - (c) "Container" means any earth pit or structure or enclosure of brick, cement, metal or other similar material in which a fire may be set.
  - (d) "Officer" means the Fire Chief or any member of the Fire Department appointed by the Chief of the Fire Department for the Town of Kingsville or Municipal By-law Enforcement Officer as appointed by the Town of Kingsville or any Ontario Provincial Police Officer.
  - (e) "Brush" means small trees and shrubs growing together.
2. No persons shall set or cause or permit to set a fire in the open air within the Town of Kingsville.
3.
  - (a) Notwithstanding the provisions of section 2 of an area zoned Agricultural pursuant to the Town of Kingsville's Zoning By-law in and/or the zoning by-laws for the former Township of Gosfield North, Township of Gosfield South and the Town of Kingsville in effect at the time of the setting of the fire, a person may set or cause to be set an open air fire that is not in a container whereby said person may burn the remains of any crop grown and/or harvested or brushed. Non-grown materials related to farming/agricultural use including but not limited to such items as plastics, nylon, oil products and insulation are strictly prohibited from being burned by open air fire.

- (b) No person under the age of sixteen (16) years shall set fire in the open air or be permitted by any other person setting such a fire to be in the immediate proximity thereof.
- (c) No person shall set an open fire referred to in section 3(a) without notifying the Fire Chief or his designate of the Town of Kingsville Fire Department prior to the time of setting such a fire at least two (2) hours prior to the time of setting such fire.
4. No person other than the Environmental Services Manager, Drainage Superintendent, Public Works Manager, Arena Complex and Parks Manager or their designate(s) shall set or cause to be set any fire in the open air on property owned or controlled by the Town of Kingsville.
  5. Every persons setting a fire as permitted by this by-law shall exercise due care and take the necessary precautions in connection therewith to avoid endangering persons and property in the vicinity thereof and, shall remain in constant attendance at such fire until the same is completely burned or extinguished.
  6. Fires in this by-law shall not be deemed to include a small confined fire supervised at all times and used to cook on a grill or a barbeque.
  7. Any officer or officers are hereby authorized to enter at all reasonable times upon any property in order to ascertain whether the provisions of this by-law are obeyed, such officer or officers are authorized to enforce and carry into effect the provisions of this by-law.
  8. Every person violating any provisions of this by-law shall be guilty of an offence and liable to a fine not exceeding One Thousand Dollars (\$1,000.00) exclusive of costs, and such fine shall be recoverable under the *Provincial Offences Act*, R.S.O. 1990, c.33 as amended.
  9. Any by-law of the former municipalities of the Town of Kingsville, Township of Gosfield South and Township of Gosfield North, which are inconsistent with or repugnant to this by-law, be and the same are hereby repealed as of the date of passing this by-law.
  10. This by-law shall come into force and take effect upon the final passing thereof.

**READ A FIRST AND SECOND TIME THIS 25<sup>th</sup> DAY OF JUNE, 2001.**

**READ A THIRD AND FINALLY PASSED THIS 25<sup>th</sup> DAY OF JUNE, 2001.**

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**MAYOR, Patrick M. O'Neil**

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**ACTING CLERK, Linda Burling**

# THE CORPORATION OF THE TOWN OF KINGSVILLE

## BY-LAW 69-2015

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### **Being a by-law to amend By-law 72-2001, being a by-law restricting the setting of Open Fires within the Town of Kingsville**

**WHEREAS** the Council of the Corporation of the Town of Kingsville passed By-law 72-2001, being a by-law restricting the setting of open fires within the Town of Kingsville (the "By-law").

**WHEREAS** section 8 of the *Municipal Act, 2001*, S.O. 2001, c. 25 as amended (the "Act") provides that the powers of a municipality under the Act or any other act shall be interpreted broadly so as to confer broad authority on the municipality to enable the municipality to govern its affairs as it considers appropriate and to enhance the municipality's ability to respond to municipal issues.

**AND WHEREAS** section 11 of the Act provides that a municipality may pass by-laws respecting the health, safety and well-being of persons.

**WHEREAS** the Council of the Corporation of the Town of Kingsville deems it necessary to amend the By-law to include the open air burn permit system currently used to manage open air fires of non-agricultural products on agricultural lands (i.e. old barns) and for 'one time' open air fires of organic material (e.g. brush) in non-agricultural areas.

### **NOW THEREFORE THE COUNCIL OF THE CORPORATION OF THE TOWN OF KINGSVILLE ENACTS AS FOLLOWS:**

1. That paragraph 3(a)(i) be added as follows:

"3(a)(i): Notwithstanding the provision of section 2 a person may make an Application for Open Air Burning in the form attached hereto and marked as Schedule "A" in accordance with the Town of Kingsville Fire Department's permit system currently used to manage open air fires of non-agricultural products on agricultural premises and 'one time' open air fires of organic material on non-agricultural premises. The Kingsville Fire Department may refuse to grant the permit applied for or any exemption of lesser effect."

2. That paragraph 11 be added as follows:

"11. If any portion of this By-law is found to be in conflict with any other provision of any other by-law of the Town, the provision which establishes the higher standard or greatest restriction shall prevail."

3. All other terms set out in said By-law 72-2001 and any amendments thereto shall remain in full force and effect.
4. This by-law shall come into full force and effect upon third reading and being finally passed.

**READ A FIRST, SECOND AND THIRD TIME AND FINALLY PASSED THIS 8<sup>th</sup> DAY OF JUNE, 2015.**

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**MAYOR, Nelson Santos**

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**CLERK, Dan DiGiovanni**